PCMA

March 3, 2020

Honorable Members
Joint Committee on Insurance and Real Estate
Legislative Office Building
300 Capitol Ave. Room 2D
Hartford CT 06106

RE: HB 5366 (Mid-Year Formulary Changes): Oppose

Dear Members of the Committee:

On behalf of the Pharmaceutical Care Management Association (PCMA), I am writing you to provide our comments regarding HB 5366 (mid-year formulary changes). PCMA is the national association representing pharmacy benefit managers (PBMs), which administer prescription drug plans for millions of Americans with health coverage provided through large and small employers, health plans, labor unions, state and federal employee-benefit plans, and government programs.

PCMA appreciates the opportunity to provide comment on HB 5366. Our industry is concerned about the bill because we believe it will restrict our ability to put downward pressure on the rising cost of prescription drugs.

HB 5366 would restrict the ability to make formulary changes during the contract year. By mandating coverage for specific drugs—regardless of the availability of effective, more affordable alternatives—HB 5366 will increase health care costs for employers and individuals in the form of higher health insurance premiums and higher drug prices. This type of policy would cost Connecticut health care payers $69 million over five-years.[1]

PBMs help employers, insurers, and public health programs provide their members access to safe, effective, and affordable medications, but pricing in the drug market is volatile, and there are few tools to incent drug manufacturers to reduce prices. Formulary placement and financial incentives (i.e., lower cost sharing) to use lower-cost generics and brand alternatives are among those tools. This bill threatens these cost saving mechanisms. If specific drugs are mandated to be covered, brand drug manufacturers have no incentive to provide price concessions on their drugs to make them more affordable for patients. All market forces to drive down the cost of drugs will be eliminated.

For example, imagine that a new generic alternative or competing brand medication were introduced to the market. Under HB 5366, even if these medications offered fewer side effects, a lower risk profile, or came at a lower cost for consumers, PBMs would be unable to encourage patients to use the new medication; favoring the more expensive brand medication and driving up costs for consumers.

1 "Estimated Cost of Potential 'Frozen Formulary' Legislation, Fully-Insured Commercial Payer Impact, 2017-2021," Milliman, Sept. 2017.

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When hepatitis C drugs Sovaldi, Harvoni, and other competitors came to market, health insurers and PBMs would not have had the leverage to negotiate the deep discounts—around 40% off the list price—on these very expensive drugs in exchange for placement on the formulary as the preferred drug

Although health plans use formularies, if a patient needs to access a non-formulary drug, health plans and PBMs have in place appeals processes for patients to request coverage. The health plan or PBM works with a patient and his or her provider to provide access to non-formulary dugs where medically necessary and/or likely to create the best outcome.

State legislation that seeks to disallow mid-year formulary changes eliminates an important tool in the fight against rising pharmaceutical costs. For these reasons, we must respectfully oppose this bill. We appreciate your consideration of our comments and are happy to answer any questions you have. Please contact me at 202-756-5743 if you have any questions.

Sincerely,

Sam Hallemeier
Director, State Affairs

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Drug Manufacturer Coupons and Co-Pay Accumulators

The unfettered price increases of prescription drugs put patients at risk and health plan sponsors in the difficult position of either having to cut benefits or increase premiums, copays and deductibles. While health plans pay the vast amount of their members' prescription drug costs, drug manufacturers' price increases have forced health plans to create new benefit designs that keep monthly premiums as low as possible—but require some members to shoulder more of the cost before their deductible is met.

What are copay coupons?

- Copay coupons are a tool drug manufacturers use to steer insured patients away from generic drugs (with generally lower copays) and toward more expensive brand drugs (with generally high copays), ignoring potentially equally effective, less expensive alternative medications.

- Copay coupons are deemed illegal kickbacks in public programs like Medicaid and Medicare and, therefore, banned because they unfairly raise costs by forcing coverage of high-priced drugs when more affordable alternatives are available. Though considered illegal kickbacks in federal health programs, they are still allowed in the commercial market.

- Copay coupons increase drug costs by undermining the formularies used by employers, unions, and other payers. By definition, copay coupons target only those who already have prescription drug coverage (i.e., those who pay copays). Copay coupons are not means-tested or designed to help the poor or uninsured.

- Copay coupons *are not* the same as patient assistance programs, which are need-based and offer free or low-cost prescription medicine to low-income people who are uninsured or under-insured. Patient assistance programs have financial or need-based requirements.

What are copay accumulators?

- Copay accumulator programs are health plan programs designed to thwart drug manufacturers' efforts to force employers, unions, and public programs to pay for expensive, unnecessary brand medications through the use of copay coupons. Copay coupons may come in the form of a coupon, debit card, or some other arrangement to disguise the source of payment.

- Payers use "accumulators" to disallow the counting of the manufacturer's coupon towards the patient's out-of-pocket max and deductible because the patient hasn't actually incurred any cost. This ensures the patient has the incentive to use the plan formulary and that the plan functions as it was designed. It also protects the integrity of the health plan since many beneficiaries won't ever use a manufacturer copay coupon.

- Under federal law, the use of copay coupons to obtain healthcare services under Medicare and Medicaid are prohibited as an inducement to healthcare. Similarly, copay coupons for prescription drugs are an inducement to obtain a particular drug even when a lower cost, therapeutic alternative is available.

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What is the fiscal impact of copay coupons?

- A study published in the American Economic Journal[1] estimates that copay coupons increased drug spending by up to 4.6 percent. According to the study, each 1 percent increase equals approximately $1.5 billion in higher drug spending annually. The study concluded that for every $1 million in coupon donations, pharmaceutical manufacturers reap $20+ million in profits.

- In 2016, researchers from Harvard, Kellogg, and ULCA released an analysis of the impact coupons have on generic drug utilization and drug spending.[2] They found coupons increase brand drug sales by more than 60%, increasing drug makers' revenue by $700 million. More importantly, they concluded consumers paid at least $700 million to $2.7 billion more in health care spending because of coupons.

- According to a 2017 AARP report, "Even after accounting for their research investments drug companies are among the most profitable public businesses in America. And an analysis from the research company Global Data revealed that 9 out of 10 big pharmaceutical companies spend more on marketing than on research."[3] Coupons are, at their core, a marketing tool.

Why should copay coupons be prohibited?

- Health plans must ensure that benefits function as intended and that the benefits work the same for everyone enrolled in the plan. Plan members all have the same coverage rules, and coverage is designed to be affordable for everyone in the plan.

- While coupons can decrease an individual's cost at the pharmacy counter, ultimately, the patient and the plan pay more overall. The individual patient pays more when the coupon goes away, instead of starting on a formulary drug.

- If drug companies are concerned about patients accessing medications, they should simply lower their prices, yet drug makers have determined that it is more profitable to use copay coupons rather than simply make their medications more affordable. The simplest, most effective way to reduce patient cost for drugs is for manufacturers to lower the price the drug.

- Legislation seeking to stop payers from managing their costs by prohibiting their use of accumulator programs would eliminate an important tool in their fight against rising drug costs.

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[1] American Economic Journal: Economic Policy 2017, 9(2): 91-123. https://doi.org/10.1257/pol.20150588

[2] When Discounts Raise Costs: The Effect of Copay Coupons on Generic Utilization, October 4, 2016. https://www.hbs.edu/faculty/Publication%20Files/DafnyOdySchmitt_CopayCoupons_32601e45-849b-4280-9992-2c3e03bc8cc4.pdf

[3] Why Our Drugs Cost So Much, AARP Bulletin May 1, 2017 https://www.aarp.org/health/drugs-supplements/info-2017/rx-prescription-drug-pricing.html